



# **THE ATTORNEY GENERAL OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

January 17, 1961

Honorable J. W. Edgar  
Commissioner of Education  
Austin, Texas

Opinion No. WW-985

Re: Under the circumstances related, must school district tax revenues, realized from taxes assessed and collectible within a calendar year, be allocated for the operation of its schools in a single scholastic year beginning September 1 in that calendar year and related questions.

Dear Mr. Edgar:

Your letter of recent date requesting the opinion of this office on the above subject is in part as follows:

"We have before us an inquiry from an independent school district which was created pursuant to special law in 1923. (Senate Bill 402, Acts 1923, 38th Legislature, Spec. Law, Chapter 91, page 317). Section 30 of that law creating the district provides that the tax assessor-collector for the City of Houston shall assess and collect for this independent school district, in the manner and form prescribed by the charter and ordinances of the City, the school taxes levied by the school district board.

"As required by this law, we are apprised, the City assesses and collects its taxes on a calendar year basis. Assessments are made in or about May, are payable thereafter and become delinquent on January 1 of the ensuing calendar year. Taxes levied and collected by the City for the independent school district (for example, in 1959) are delivered to the school district in the early part of January (1960), and such revenues were budgeted and allocated by the school district for the operation of its schools in the scholastic year 1959-60, four months of which--September through December--are in 1959 and the remaining eight scholastic

year months extending into 1960. See also Section 15 of Senate Bill 402, supra.

"It is suggested by this school district that under the particular local conditions created by the cited special act, the law should be construed so that this independent school district may budget and allocate its local tax revenue for the actual calendar months for which the district contends the taxes are collected. In short, the district desires to know if it legally may allocate school district taxes assessed, and collectible in 1961 on the basis of 60 per cent for use in the eight months from 1 January through 31 August, 1961, and 40 per cent for use in the four months, 1 September through 31 December, 1961. The effect thereof would be to allocate school district taxes assessed and collectible in the calendar year to the operation of schools covering parts of two scholastic years coming within that calendar year.

"We would appreciate receiving an opinion from your office on the following questions:

- "1. Under the circumstances related, must school district tax revenues, realized from taxes assessed and collectible within a calendar year, be allocated for the operation of its schools in a single scholastic year beginning September 1 in that calendar year?
- "2. If the answer to 1 is in the negative, may school district tax revenues, realized from taxes levied and collectible within a calendar year (for example in 1961) be allocated on the basis of 60% for use in the first eight months (1 January through 31 August, 1961) and 40% for use in the latter four months (1 September through 31 December, 1961) of that calendar year."

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The Uniform Budget Act (Article 689A-17a, Vernon's Civil Statutes) states in part as follows:

"Section 1. The president of the board of school trustees in each independent school district, whether created by general or special law in this state, is hereby expressly designated as the budget officer for such district. Not later than August 20th, the president of such school board of trustees shall prepare, or cause to be prepared, a budget covering all proposed, carefully estimated receipts and expenditures for the next succeeding fiscal year, itemized in detail according to classification and purpose of expenditure. . . .It shall be the duty of said board of trustees at said meeting to adopt a budget to cover all expenditures for said independent school district for the next succeeding fiscal year. . . ."

(Emphasis added)

The term "fiscal year" as used in this Article is synonymous with "scholastic year" for it is the scholastic year and not the calender year which governs the operation of school districts with respect to incurring obligations. Attorney General's Opinion Nos. 0-4257 (1942) and 0-4001 (1941). Another reason for this belief is that this Article requires the president to prepare, or cause to be prepared, a budget not later than August 20th for the next succeeding fiscal year. This indicates that the budget is being formulated for use during the coming scholastic year which begins on September 1. (Article 2903, Vernon's Civil Statutes)

To allow a school district to budget and allocate its local tax revenue on a calender year basis would, in our opinion, be in direct conflict with the above quoted Article. The budget would then be based on the "calender year" and not the "fiscal year" as required by the Uniform Budget Act.

Therefore, school district tax revenues, realized from taxes assessed and collectible within a calender year, must be allocated for the operation of its schools for a single scholastic year beginning September 1 in that calender year.

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Our answer to your first question renders unnecessary an answer to your second question.

SUMMARY

School District tax revenues, realized from taxes assessed and collectible within a calendar year, must be budgeted and allocated for the operation of its schools for a single scholastic year beginning September 1 in that calendar year.

Yours very truly,

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Attorney General of Texas

By   
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APPROVED:

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